

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

SAGUN TULI, M.D.)	
Plaintiff)	Case No. 1:13-cv-11023-MLW
v.)	
GARY M. VOTOUR, and)	
AUTOMATTIC, INC.)	
Defendants)	

**NOTICE OF CONSTITUTIONAL CHALLENGE TO A STATE STATUTE PURSUANT
TO FED. R. CIV. P. 5.1**

Defendant Gary M. Votour hereby notifies this Court, pursuant to Rule 5.1 of the Federal Rules of Civil Procedure that he has challenged the constitutionality of Mass. Gen. Laws c. 231, § 92 (the “Statute”). As an affirmative defense in his Amended Answer, Mr. Votour submits that the Statute, which by its terms would permit liability for true statements made with “actual malice,” is an unconstitutional infringement on the right to free speech under the First Amendment and Article 16 of the Declaration of Rights of the Massachusetts Constitution.

A copy of this notice and Mr. Votour’s Amended Answer, which draws into question the constitutionality of the Statute, will be served on the Attorney General of the Commonwealth of Massachusetts by certified mail.

Respectfully Submitted,

Gary M. Votour

By his attorneys,

/s/ Adam J. Hornstine
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Dated: May 15, 2013

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the above document, filed through the ECF system, will be sent electronically to the registered participants of record as identified on the Notice of Electronic Filing on May 15, 2013.

A copy of this notice will also be mailed on May 15, 2013 by certified mail to the Office of the Attorney General of Massachusetts at the following address:

Office of the Attorney General
1 Ashburton Place
Boston, MA 02108

/s/ Adam J. Hornstine
Adam J. Hornstine